

1 STATE OF CALIFORNIA

2 Energy Resources Conservation
3 And Development Commission

4
5 In the Matter of:) Docket No. 07-AFC-8
6)
7 Application for Certification for the)
8 Carrizo Energy)
9 Solar Farm Project)

10
11 OBJECTION AND RESPONSE TO INTERVENOR
12 MICHAEL STROBRIDGE'S DATA REQUEST DATED MARCH 3, 2009

13 To: Intervenor Michael Strobridge

14 On behalf of John Kessler and the California Energy Commission staff (Commission
15 staff), Objection is made to "Carrisa Plains Resident Michael Strobridge's
16 Declaration"[sic] dated March 3, 2009, which was received on March 4, 2009 (after the
17 close of business on March 3, 2009). Said document purports to propound a data
18 request, as follows:

19 DATA REQUEST:

20 "To: Mr. John Kessler California Energy Commission

21 Michael Strobridge requests that you answer the answer the [sic]
22 following data request within 30 days. All the information sought is relevant
23 to the proceeding and is in the control of the applicant and not readily
24 available from other sources. In answering this data request, you are
25 required to furnish full and complete answers.

1. In lieu of the deal that gave First Solar the control over the 550-
megawatt photovoltaic facility that OptiSolar was building for PG&E; I am
requesting that the Wildlife Corridor Modeling being performed by SC
Wildlands be put on hold. First Solar must first submit their facility design to
accurately address the impacts to the wildlife corridor in the Carrizo Plains,

1 since it is safe to assume that the project technology and design could
2 potentially change.”

3 APPLICABLE LAW

4 Title 20, *California Code of Regulations*, section 1716 provides in relevant part:

5 (d) Any party may request from a party other than the applicant
6 information which is reasonably available to the responding party and
7 cannot otherwise be readily obtained, and which is relevant to the
proceeding or reasonably necessary to make any decision on the notice or
application. All such requests shall state the reasons for the request.

8 (e) all requests for information shall be submitted no later than 180 days
9 from the date the commission determines an application is complete,
10 unless the committee allows requests for information at a later time for
good cause shown.

11 (f) Any party requested to provide information pursuant to this section
12 shall, within 20 days of receiving the request, notify the requesting party
and the committee in writing if it is unable to provide or objects to
providing the information requested of it. . . .

13 OBJECTION

14 Legal objection is made on the following grounds: the referenced request is not a data
15 request, nor does it seek information. Rather, it is a request for substantive action that
16 should be directed to the siting committee. Neither Mr. Kessler nor any Commission
17 staff have the authority to unilaterally put this proceeding “on hold” and are therefore
18 unable to provide the information requested. If it is nevertheless deemed to be a data
19 request, Commission staff would object to responding based on the data request being:
20 vague, irrelevant, not reasonably calculated to lead to the discovery of admissible
21 evidence, not reasonably necessary to make any decision on the notice or application,
22 and untimely. More than 180 days have passed from the date the commission
23 determined the application for certification was complete on or about December 19,
24 2007, yet Intervenor has not obtained an extension from the committee. Please note
25

1 that the February 13, 2009 Committee Order granting Mr. Strobridge's Petition to
2 Intervene states at page 2:

3 The deadlines for conducting discovery and other matters shall not be
4 extended by the granting of these Petitions.

5 If Mr. Strobridge has any questions about the above objections, it is respectfully
6 recommended that he consult qualified legal counsel concerning proceedings before the
7 California Energy Commission and the function and timing of data requests.

8
9 Date: March 19, 2009

Respectfully submitted,

10
11 /S/

12 Michael Doughton
13 Senior Staff Counsel
14 California Energy Commission
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16 Sacramento, CA 95814

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20
21 RESPONSE

22 Without waiving the above legal objections, Mr. Kessler responds to the "data request"
23 as follows:

24 Commission staff have the information necessary to perform the modeling and we
25 believe it should not be delayed. Commission staff has not received any information
that the project boundaries of the Topaz Solar Farm would change as a result of a
transfer of ownership from Optisolar to First Solar. All three of the proposed solar
projects in the Carrizo Plain are considered and treated as barriers to wildlife movement

1 in the Carrizo Plain as a function of their project boundaries that will be fenced. The
2 particular technology proposed for solar energy production is not a consideration of the
3 Wildlife Corridor Study.
4

5 Date: March 19, 2009

Respectfully submitted,

6 /S/
7

8 John Kessler
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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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1516 NINTH STREET, SACRAMENTO, CA 95814
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**APPLICATION FOR CERTIFICATION
FOR THE CARRIZO ENERGY
SOLAR FARM PROJECT**

Docket No. 07-AFC-8

PROOF OF SERVICE
(Revised 2/18/2009)

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DECLARATION OF SERVICE

I, **CHESTER HONG**, declare that on March 19, 2009, I served and filed copies of the attached "**OBJECTION AND RESPONSE TO INTERVENOR MICHAEL STROBRIDGE'S DATA REQUEST DATED MARCH 3, 2009**". The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: **[<http://www.energy.ca.gov/sitingcases/carrizo/index.html>]**. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

For service to all other parties:

- ☒ sent electronically to all email addresses on the Proof of Service list;
- ☒ by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

For filing with the Energy Commission:

- ☒ sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below **(preferred method)**;

OR

_____ depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 07-AFC-8
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.

_____/S/_____